

Memorandum

To : Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner (Ret.), Second District
Honorable John Chiang, State Controller

Date : February 12, 2013

From : Todd C. Gilman, Chief
Taxpayers' Rights and Equal Employment Opportunity Office, MIC: 70

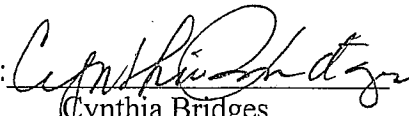
Subject : **Taxpayers' Rights Advocate's 2011-12 Property and Business Taxes Annual Report
Presentation at February 26-28, 2013 Board Hearings**

I am pleased to present the Taxpayers' Rights Advocate's 2011-12 Property and Business Taxes Annual Report. The report, a copy of which is attached, highlights the Taxpayers' Rights Advocate Office accomplishments, involvement in projects, current issues, and examples of cases illustrating the services our office provides.

If you would like additional copies of the 2011-12 Annual Report, please do not hesitate to contact Ms. Patricia Carpenter in my office at 916-445-0703.

TCG: ls
Members 021213.docx

cc: Mr. Mike Gipson, Member's Office, Fourth District
Mr. Joel Angeles, Member's Office, Third District
Mr. Alan LoFaso, Member's Office, First District
Mr. Sean Wallentine, Member's Office, Second District
Ms. Marcy Jo Mandel, Deputy State Controller
Ms. Cynthia Bridges, Executive Director

Approved: 
Cynthia Bridges,
Executive Director

State Board of Equalization

Taxpayers'
Rights
Advocate's

**2011-12
Annual
Report**

PROPERTY AND BUSINESS TAXES

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San Francisco

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Second District
Lancaster

MICHELLE STEEL
Third District
Orange County

JEROME E. HORTON
Fourth District
Los Angeles

JOHN CHIANG
State Controller



KRISTINE CAZADD
Executive Director

Publication 316

TAXPAYERS' RIGHTS ADVOCATE OFFICE

State Board of Equalization

450 N Street, MIC:70
PO Box 942879, Sacramento, CA 94279-0070
Toll-Free: 1-888-324-2798 Fax: 1-916-323-3319
Internet: www.boe.ca.gov/tra/tra.htm

Todd C. Gilman, Advocate 1-916-324-2798

Dan Leddy, *Manager* 1-916-319-9237

Laureen Simpson, *Lead Technical Advisor* 1-916-445-0218

Patricia Carpenter, *Tax Advocate Technician* 1-888-324-2798

Joseph Santos, *Tax Technician* 1-888-324-2798

Property Tax Technical Advisors

Mark Sutter, *Lead* 1-916-324-2797

Laura Bowman-Dirrim 1-916-445-8267

Business Taxes Technical Advisors

Rhonda Krause 1-916-445-8321

Brian Fikes 1-916-323-2103

Diana Tay 1-916-323-0439

Alfred Buck 1-916-319-9756

Natalie Capehart 1-916-324-2681

Will Fikry

Rose Moreno

Tax Appeals Assistance Program

Craig Shaltes, *Senior Tax Counsel* 1-916-324-2216

Michael Larkin, *Tax Counsel* 1-916-324-8788

Richard Carpenter, *Program Coordinator* 1-916-319-9199

Copies of this publication may be ordered from the Taxpayers' Rights Advocate Office by calling 1-888-324-2798, by writing to the address above, or by downloading from the website shown above.

LETTER TO THE EXECUTIVE DIRECTOR

February 2013

Ms. Cynthia Bridges¹
Executive Director

Dear Ms. Bridges:

I am pleased to present the Taxpayers' Rights Advocate's 2011-12 Property and Business Taxes Annual Report. This report:

- Highlights accomplishments of the Taxpayers' Rights Advocate Office during the past year;
- Describes our involvement in important new projects to assist taxpayers;
- Identifies current issues we are working to resolve; and
- Contains examples of cases illustrating the services our office provides.

While California's economy struggles to recover, taxpayers and individuals are still facing tough challenges. Taxes and fees are a point of discussion for many Californians these days, and with the state facing large continuing deficits, the Board of Equalization (BOE) is making every effort to collect what is owed to the state. Regardless of these circumstances, all tax and fee payers are afforded protection under the Taxpayers' Bill of Rights, and should expect to be treated with professionalism, respect, and cooperation when they come into contact with BOE staff. The Taxpayers' Rights Advocate Office continues to stress the importance of training and education of all BOE staff on the importance of taxpayer rights and will continue to work with program staff to ensure those rights are protected.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Todd C. Gilman", with a stylized flourish at the end.

Todd C. Gilman
Taxpayers' Rights Advocate

¹Ms. Bridges was appointed Executive Director effective August 1, 2012.

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The logo consists of a light pink oval with a dark brown border, centered on a dark brown background. The text "TAXPAYERS' RIGHTS ADVOCATE OFFICE" is written in dark brown, uppercase letters inside the oval.

TAXPAYERS' RIGHTS ADVOCATE OFFICE

TAXPAYERS' RIGHTS ADVOCATE OFFICE

VISION

To be the clear and trusted voice of reason and fairness when resolving issues between taxpayers² and the government.

MISSION

To positively affect the lives of taxpayers by protecting their rights, privacy, and property during the assessment and collection of taxes.

GOALS

- To ensure that taxpayers coming to the Taxpayers' Rights Advocate Office with problems that have not been resolved through normal channels have their concerns promptly and fairly addressed.
- To identify laws, policies, and procedures that present barriers or undue burdens to taxpayers attempting to comply with the tax laws; to bring those issues to the attention of Board of Equalization (BOE) and county management; and to work cooperatively on making changes to laws, policies, and procedures where necessary.
- To meet taxpayer needs by opening appropriate channels of communication, providing education, and finding creative solutions to unresolved problems.
- To promote BOE staff's commitment to honor and safeguard the rights of taxpayers.

²The term "taxpayers" in this publication means payers of sales and use taxes, special taxes and fees, and property taxes.

PROFILE

Taxpayers' Bills of Rights Mandate a Taxpayers' Rights Advocate

In January 1989, the *Harris-Katz California Taxpayers' Bill of Rights* (see [Appendix 1](#)) was placed into law to ensure that the rights, privacy, and property of California taxpayers were adequately protected in the assessment and collection of sales and use taxes. All holders of seller's permits and consumer use tax accounts, which currently include approximately 1,020,000 taxpayers, are provided protection under this law.

Effective January 1993, the Special Taxes Bill of Rights expanded the Bill of Rights statutory authority to special taxes and fees programs administered by the BOE, currently affecting approximately 226,000 taxpayers in 27 programs. Since these programs primarily affect business owners, this publication refers to both Bills of Rights generally as the Business Taxpayers' Bill of Rights, covering both sales and use taxes and the various special taxes and fees.

The *Morgan Property Taxpayers' Bill of Rights* (see [Appendix 2](#)) was added in January 1994, governing the assessment, audit, and collection of property tax, with the goal of ensuring that millions of taxpayers receive fair and uniform treatment under the property tax laws.

Each Taxpayers' Bill of Rights provides for a Taxpayers' Rights Advocate (Advocate). For instance, the designation of an Advocate for sales and use tax matters is found in Revenue and Taxation Code section 7083 (see [Appendix 1](#)), and beginning with section 5904 for property tax issues (see [Appendix 2](#)).

A summary of the taxpayers' rights statutes that apply to the tax and fee programs administered by the BOE can be found in BOE [publication 70](#), *Understanding Your Rights as a California Taxpayer*.

Legal Responsibilities of the Taxpayers' Rights Advocate

The responsibilities of the Advocate are specifically delineated in the law. Consistent with the Taxpayers' Bills of Rights, the Advocate:

- Facilitates resolution of taxpayer complaints or problems, including complaints regarding unsatisfactory treatment of taxpayers by BOE employees;
- Monitors various BOE tax and fee programs for compliance with the Taxpayers' Bill of Rights and recommends new procedures or revisions to existing policy to ensure fair and equitable treatment of taxpayers;
- Ensures taxpayer educational materials are clear and understandable; and
- Coordinates statutory Taxpayers' Bill of Rights hearings to give the public an opportunity to express their concerns, suggestions, and comments to the Board Members.

How Legal Responsibilities are Fulfilled

The Taxpayers' Rights Advocate (TRA) Office fulfills its legal responsibilities by taking the following actions:

Facilitates resolution of taxpayer complaints or problems

The TRA Office generally assists taxpayers who have been unable to resolve a matter through normal channels, when they want information regarding procedures relating to a particular set of circumstances, or when there appear to be rights violations in either the audit or compliance areas. Taxpayers also call to convey their frustration or to seek assurance or confirmation that staff action is lawful and just. The TRA Office provides assistance to taxpayers and BOE staff by facilitating better communication between these parties, which helps to eliminate potential misunderstandings. Taxpayers are provided information on policies and procedures so they can be better prepared to discuss and resolve their issues with staff.

Occasionally a taxpayer or a BOE employee contacts the TRA Office complaining about discrimination or harassment. TRA Office staff work with appropriate BOE management to resolve the complaint. Likewise, alleged taxpayer discrimination or sexual harassment toward BOE staff is not tolerated and is appropriately addressed.

Monitors programs and recommends policy or procedural changes

In cases where the law, policy, or procedures do not currently allow any change to the staff's actions, but a change to the law, policy, or procedure appears warranted, the TRA Office actively works toward clarification or modification. Several of the past recommendations for policy or procedural changes, suggestions for enhancements to staff training materials, and proposals for legislative change have resulted from direct contacts with taxpayers.

Ensures information and guidance provided is easy to understand

The TRA Office suggests new legislation, participates in task forces and committees charged with procedure and regulation revisions, and routinely reviews proposed revisions to taxpayer educational materials to ensure they are easy to understand. TRA Office staff assist in providing information to the public at large through participation in public forums and business fairs.

Coordinates Taxpayers' Bill of Rights hearings

The TRA Office is responsible for making arrangements, in cooperation with the Board Proceedings Division, for yearly property tax and business taxes hearings in both Northern and Southern California, including publicizing the hearings. Immediately after the hearings, the TRA Office works with appropriate areas of the BOE or counties to address issues and concerns conveyed to the Board Members by presenters and provides follow-up reports to the Members when requested.

Cooperation with Advocates of Other Government Agencies

The BOE's Advocate meets on a regular basis with the Advocates from the Employment Development Department, the Franchise Tax Board, and the Internal Revenue Service to discuss common problems and systemic issues facing California taxpayers. These meetings, along with close working relationships among the advocate offices, have allowed all the agencies serving California taxpayers to have a better understanding of taxpayer issues. California taxpayers also benefit from the TRA Office's ongoing relationships with the other California advocates because of the enhanced opportunities for outreach to community groups provided by contacts developed by all the advocates.

Differences Between Implementation of the Business and the Property Taxpayers' Bills of Rights

The major difference for the TRA Office between the Business Taxpayers' Bill of Rights and the Property Taxpayers' Bill of Rights is in the resolution of taxpayer complaints, as outlined below.

Business taxes

The BOE is responsible for assessing and collecting business taxes (sales and use taxes and special taxes and fees). The Executive Director has administrative control over these functions and the staff carrying them out. The Advocate reports directly to the Executive Director and is independent of the business and property taxes programs. When complaints relating to the BOE's business taxes programs are received in the TRA Office, the office has direct access to all BOE information and staff involved in the taxpayers' issues. The TRA Office acts as a liaison between taxpayers and BOE staff in resolving problems. If the Advocate disagrees with actions taken by BOE staff and is unable to resolve the situation satisfactorily with program management, the issue is brought to the Executive Director for resolution.

Property tax

In contrast, the TRA Office works with county assessors, tax collectors, and auditor-controllers (most of whom are elected officials), plus clerks to the county boards of supervisors when responding to property taxpayers' concerns. The TRA Office also works cooperatively with the California Assessors' Association on statewide issues. Although the TRA Office does not have the legal authority to overturn local actions, TRA Office staff are generally successful in soliciting cooperation and ensuring that taxpayers receive proper treatment under the law. In cases where there is no procedural or legal authority to remedy a problem—and a change does appear justified—the TRA Office recommends specific policy, procedural, and/or legislative changes.

The *Business Taxes Issues* and *Property Tax Issues* chapters of this report include examples of how taxpayers' complaints are resolved in each of these areas.

PUBLIC OUTREACH

The public becomes aware of the services offered by our office in a number of ways. For instance, information is included about the TRA Office in many BOE publications and standard correspondence, the public can learn about and contact the office via the BOE website or by telephone, and TRA Office staff members make presentations at public events.

Publications and Standard Correspondence

- Information about specific taxpayers' rights under the law and the Advocate's role in protecting those rights is contained in [publication 70](#), *Understanding Your Rights as a California Taxpayer* (September 2011), which is available in all BOE offices and on the BOE's website.
- [Publication 145](#), *California Taxpayer Advocates—We're Here for You* (March 2010), provides contact information for the Advocates from the Board of Equalization, Franchise Tax Board, Employment Development Department, and Internal Revenue Service. Publication 145 is posted on the websites of the participating state agencies and the California Tax Service Center, www.taxes.ca.gov (search for "California Taxpayer Advocates").
- The TRA Office's toll-free number (1-888-324-2798) is printed on the BOE's permits and licenses.
- Articles reminding taxpayers about their rights and referencing publication 70 are published each year in BOE newsletters.

Email and Telephone Contacts

- The TRA Office's webpage, www.boe.ca.gov/tral/tra.htm, can be accessed from the BOE's home page. The webpage contains a video introduction to the TRA Office and provides a means for taxpayers to communicate with the TRA Office directly via email.
- The TRA Office's toll-free number is included as an option on the automated phone tree for all field offices in the Second and Third Equalization Districts.

Public Events

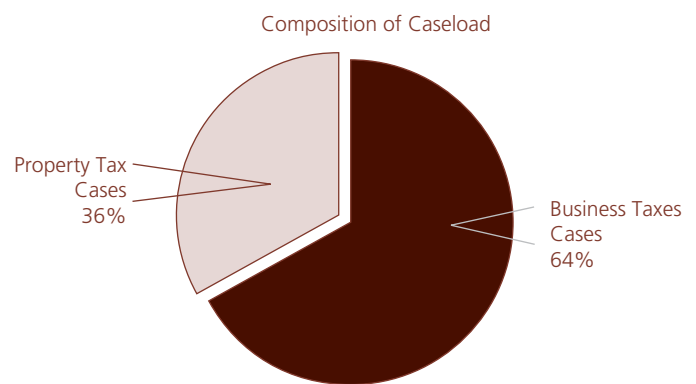
The public learns about the services of the TRA Office at the following types of events:

- Board hearings: The Advocate or TRA Office staff is present and available to answer questions or assist taxpayers arriving for their hearings before the Board Members in Sacramento. Due to BOE budget constraints, the Advocate is available to assist taxpayers at the Culver City Board hearings by telephone only. [Publications 70](#) and [145](#) (described on page 6) are also available to those attending the Board hearings.
- Board Member-sponsored events: The Advocate or designee attends all of the Small Business Fairs and Seminars and the Nonprofit Seminars throughout the state. At these Board Member-sponsored events, the TRA Office interacts with business owners and charitable organization representatives, makes presentations, and provides written materials about the TRA Office.
- Non BOE-sponsored events: Direct contacts with the public and some presentations are made at conventions, fairs, and conferences sponsored by consortiums of industry or business groups to assist California business owners, such as the Professional Business Women's Conference, the IRS Nationwide Tax Forum, the annual meeting of the California Tax Bar and California Tax Policy Conference, and the California Small Business Day in Sacramento. The BOE Advocate also partners with the other California taxpayer advocates to make presentations at meetings of individual business groups and tax professionals.

CONTACTS RECEIVED IN 2011-12

Cases

TRA Office cases totaled 999 in fiscal year 2011-12, a 16 percent increase from the 863 cases the previous fiscal year. This year's composition of cases was similar to last year's. The TRA Office caseload was comprised of 64 percent business taxes cases and 36 percent property tax cases; last year the mix was 67 percent business taxes cases and 33 percent property tax cases.



Increasing each year for the past four years, the BOE website accounted for the largest source of referrals for all TRA Office cases. In fiscal year 2011-12, taxpayers indicated they learned about the TRA Office via the Internet in 29 percent of the property tax cases and in 40 percent of the business taxes cases. These referrals represent 36 percent of the total cases opened by the TRA Office in fiscal year 2011-12. The *Property Tax Issues* and *Business Taxes Issues* chapters include listings of other important means by which taxpayers learned about the TRA Office.

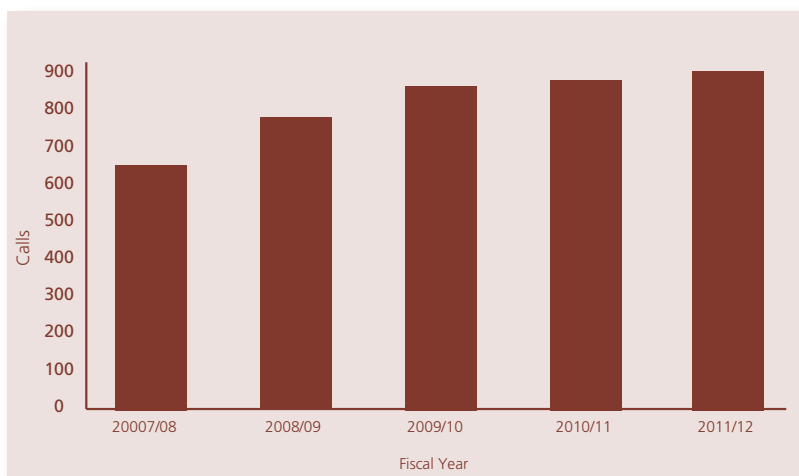
Telephone Calls

Telephone call volume in fiscal year 2011-12 increased from last year, at an average of 866 calls per month (not including calls that resulted in new cases), compared to 851 calls per month in fiscal year 2010-11. Due to the broad availability of the TRA Office's toll-free telephone number, as described above,

TAXPAYERS' RIGHTS ADVOCATE OFFICE

the office receives a large number of contacts from taxpayers and others who are either seeking general information about a tax program or the application of tax law, or who have not yet attempted to resolve their disagreements with the BOE through normal channels. Some callers have questions or concerns that need to be addressed by another state agency such as the Franchise Tax Board. TRA Office staff responds by directing the caller to the appropriate BOE section, individual, information resource such as the BOE website, or to the appropriate state agency.

Average Telephone Calls Per Month





PROPERTY TAX ISSUES

PROPERTY TAX ISSUES

CASE RESOLUTION

Property owners throughout the state contact the Taxpayers' Rights Advocate (TRA) Office for assistance and information. Although primary contact is with individual taxpayers, cases also originate from contact with attorneys, brokers, lenders, title and escrow companies, and government officials such as assessors, tax collectors, recorders, auditor-controllers, county supervisors, Board Members, and legislators.

The variety of issues represented by the cases require that technical advisors in the TRA Office have broad knowledge and experience in property assessment and taxation. Since the technical advisors are appraisers by profession with experience in a county assessor's office or at the Board of Equalization (BOE), they can quickly determine how an issue should be resolved.

About the Property Tax Case Statistics

County of origin

The TRA Office worked 357 property tax cases in fiscal year 2011-12 compared to 289 cases in the previous fiscal year, a 24 percent increase. The TRA Office tracked the number of cases by county of origin and found for the most part, that the population of the county tends to determine the number of cases from each county.

Ten counties represented 63 percent of the cases while those ten counties represent 67 percent of the state's population. The ten counties include Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and Ventura. Most counties had at least one contact with the TRA Office.

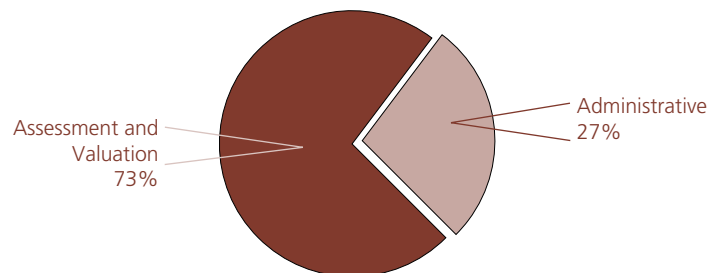
The overwhelming majority of property tax cases are resolved in conjunction with local county assessors, tax collectors, and assessment appeals boards. The remaining cases are resolved through state agencies such as the BOE or the State Controller's Office.

Multiple offices are often involved in the resolution of taxpayers' cases.

Types of cases

In fiscal year 2011-12, 73 percent of property tax cases were in the assessment and valuation category which includes topics such as value reductions, changes in ownership, appraisal methodology, exclusions, exemptions, assessment appeals, new construction, general property tax information and definitions, and actual enrollment of values. The administrative category, making up the remaining 27 percent, includes topics such as creating and mailing tax bills and refunds, waiving penalties, and public access to data. Issues related to the decline in the real estate market were again the primary reason that taxpayers contacted our office. The declining market was a component of almost all cases.

Assessment and Valuation Related Issues Compared to Administrative Issues

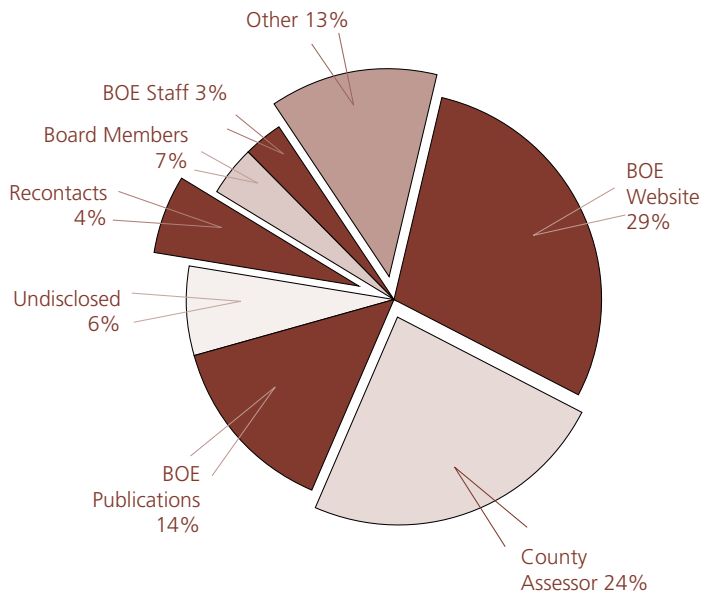


Two specific change-in-ownership exclusion issues that we track each year, base year value transfers between parents and children and base year value transfers for taxpayers 55 years of age or older or persons severely and permanently disabled (Revenue and Taxation Code sections 63.1 and 69.5 respectively), accounted for eight percent of the total cases in fiscal year 2011-12 compared to nine percent of the total caseload for fiscal year 2010-11.

How taxpayers were referred to the TRA Office

In an effort to improve public service, the TRA Office attempts to identify the source of referrals. This year the Internet was the largest source of referrals, accounting for 29 percent of the property tax cases. County assessors accounted for 24 percent compared to last year's 17 percent. The other important source of referrals was publications/media at 14 percent.

Property Tax Caseload Referrals



Examples of Property Tax Cases

The following cases illustrate how taxpayers' issues are resolved by the TRA Office staff and indicate the range of services provided by the property tax technical advisors. Our role is usually one of review and explanation of processes and methodology, and facilitation of resolutions between taxpayers and county departments.

Property should have received parent-child exclusion

Problem. An escape assessment was issued for a change in ownership that occurred four years earlier. The taxpayer did not challenge that assessment within the statutory sixty days but later went to the assessor's

office to seek assistance in obtaining a parent-child exclusion for the change in ownership. The assessor was willing to allow the exclusion prospectively but since the exclusion had not been requested timely, they would not grant the exclusion effective as of the change in ownership date. The taxpayer asked why they were not granted the exclusion originally and were told they had not applied for it. The taxpayer remembered they requested the exclusion in person shortly after the transfer and they located their copy of the original document.

Resolution. The TRA Office requested the county do a more thorough search to determine whether an application for the exclusion had been filed and the county was able to find the misfiled application. The change in ownership that occurred four years earlier was then excluded from reassessment.

Summary – Services Provided. The TRA Office's efforts were effective because of the technical advisor's knowledge of county operations and the TRA Office's credibility and working relationship with the county.

Elderly taxpayer was to lose property in tax sale

Problem. A property owned by a 93 year old blind woman was going to be sold by the county to recoup delinquent taxes which were in arrears for five years. When the owner's niece discovered the problem she contacted the TRA Office and asked what could be done to save their home from tax sale.

Resolution. After confirming with the assessor that the taxes were enrolled properly and the taxpayer was receiving the exemptions she was entitled to, we contacted the tax collector to determine whether a payment plan was possible. We were informed that a payment plan was initiated previously but not finished by the applicant, another family member. Since the taxpayer defaulted on the payment plan, another payment plan was not an option and full payment was required. The owner needed to get a loan to pay the

taxes and was working with a lender. We requested an extension of two months in order for the loan to be funded but the county denied the request. We then suggested a one-month extension if the lender wrote a letter explaining that the loan was in process. The loan was made and taxes were paid in full before the scheduled date of the tax sale.

Summary—Services Provided. The TRA Office's technical advisor's understanding of the issues and tax sale process helped achieve a positive solution for the taxpayer and the county.

Taxpayer offered a payment plan after physical inspection of property

Problem. A disabled taxpayer, delinquent on taxes for five years, was about to lose his property to tax sale. The taxpayer explained that the condition of the property was extremely poor and provided photographs to prove his case.

Resolution. After the taxpayer contacted the TRA Office for assistance, we gathered the facts from the taxpayer and confirmed the facts with the assessor. We requested that the assessor investigate the property's condition and reduce the value for the current year if appropriate. We pressed for an onsite visit so that the assessor would be fully aware of the property's true condition. Since the property was to be sold at tax sale soon, we encouraged a manager in the tax collector's office to participate in the same visit to the property. Although it is normal for tax collector staff to visit a property likely to be sold at a tax sale, we felt it was important that it was done in conjunction with the assessor's visit to avoid any unnecessary burden on the taxpayer and to ensure that all parties were in agreement as to the condition of the property. The property's condition was as poor as the owner described. The assessor made a reduction in the current year's assessment and the tax collector determined that the property's condition would make it difficult to sell the property at a tax sale and therefore granted a payment plan.

Summary—Services Provided. Through our discussions with the county assessor and tax collector's offices, along with the knowledge of how all parties see a problem from different perspectives, we were able to effect the resolution that allowed this taxpayer to keep his property.

ISSUE RESOLUTION

The TRA Office strives to ensure fair and equitable treatment of taxpayers in the assessment and collection of taxes and to recommend changes in policies, procedures, and laws to improve the assessing, billing, refunding, and contesting of assessments. As a result of our contacts with taxpayers, issues raised at the annual Taxpayers' Bill of Rights hearings, and issues identified by TRA Office staff, recommendations are presented to BOE staff or counties for evaluation. The TRA Office then works with BOE and county staff in the development and implementation of changes that will improve the administration of property taxes.

Work in Process—Issues Identified

As a result of taxpayer contacts and review of trends, policies, and procedures within the BOE or in county offices, the TRA Office has recommended consideration of the following issues and is working with staff to develop solutions.

Enhanced training for assessment appeals board members is needed

Issue. The assessment appeal process is complex for all parties involved. Assessors, appeals boards and staff, and taxpayers need to understand the process as much as possible to ensure fair hearings.

Work in Process. As recommended by the TRA Office, the County-Assessed Properties Division solicited county assessment appeal boards asking what type of training they need. As those needs are identified, training will be developed and provided when possible by TRA Office staff and County-Assessed Properties Division staff.

County computer systems should be routinely updated

Issue. Assessors need current information on recordings and comparable sales data to provide more timely assessments. Additionally, once the assessment has been completed by the assessor, other agencies, such as the auditor controller and tax collector, need the information as soon as possible to issue tax bills and to provide refunds when necessary. Information regarding assessment appeals needs to be shared quickly between assessors and assessment appeals boards so that challenges to assessments can be worked more efficiently.

Work in Process. Technology is a pillar of any mass appraisal process. Timely assessments, assessment appeals, bills, refunds and many other items would be impossible without current technology. Counties continually face new challenges, however, and must develop better ways of completing their work. The TRA Office is continually learning about the counties' computer systems and their problems so that we can better provide assistance to taxpayers and feedback to counties on where improvements could be made.

Recently taxpayers have been watching their property's value plummet with tax relief slowed by outdated methods of processing the necessary paperwork to affect a timely and accurate tax roll in some county offices. Technology, little which the taxpayer actually sees, has allowed assessors to increase their productivity and therefore speed up resolution time on assessment reductions.

The TRA office is pleased to note two examples of technological improvements. In Sacramento County, two computer data source systems existed but were not integrated. One integrated system was designed and was made available to more users. The direct connection between the systems allowed for faster interaction externally with other agencies and internally with assessor staff. The increased efficiency of the system became obvious in the more efficient scheduling and processing of assessment appeals. Tasks that took weeks were reduced to only minutes.

San Bernardino County updated their system so that all staff has access to the information they need without having to locate paper copies that were often kept in another location. Further, appraisers are provided the information they need to complete their appraisal assignments without as much searching and manual input of data. Appraisers can also send the appraisal to their supervisor electronically for review. Taxpayers expect these types of improvements and it is important to recognize that some counties, as budgets permit, are making strides in improving how efficiently they perform their duties.



BUSINESS TAXES ISSUES

CASE RESOLUTION

Approximately two-thirds of the Taxpayers' Rights Advocate (TRA) Office's contacts consist of individuals liable for taxes and fees under the Sales and Use Tax Law and various special tax and fee programs administered by the Board of Equalization (BOE). All of these tax and fee programs are collectively referred to as "business taxes."

A primary goal of the TRA Office is to ensure that taxpayers contacting this office with problems that have not been resolved through normal channels have their concerns promptly and fairly addressed. The Advocate and his staff have extensive knowledge of BOE programs, policies, and procedures. This knowledge enables them to advise taxpayers of their rights and obligations, explain the tax law and BOE policy, and seek out creative and appropriate solutions that are acceptable to taxpayers and BOE staff. The TRA Office's independent status allows this office to focus on assisting taxpayers within the framework of the law with the cooperation of BOE management and staff.

Following is information regarding the business taxes cases the TRA Office worked on this year and some examples of cases that illustrate the services this office offers its customers.

About the Business Taxes Case Statistics

During fiscal year 2011-12, the TRA Office recorded 642 new business taxes cases, compared to 574 cases in the previous fiscal year, a 12 percent increase.

Outcome of business taxes cases

Appendix 3 provides important information about the cases, categorized by office of origin. A specific BOE field or Headquarters office or the Franchise Tax Board was designated as the office of origin for a case

if the taxpayer contacted the TRA Office regarding an action taken by that specific office. "TRA Office" was normally designated as the office of origin in cases where individuals wanted general information and guidance regarding a BOE process or procedure or if the case was a result of testimony at a Taxpayers' Bill of Rights hearing. The TRA Office tracked broad issue types (see below) and critical outcomes of the cases.

Customer Service Concerns. The TRA Office closely monitors the number and type of customer service concerns that taxpayers bring to its attention because the manner in which taxpayers are treated is an important indication of the extent to which BOE staff is acting in accordance with the intent of the Taxpayers' Bill of Rights. Customer service concerns are categorized as:

- **Communication:** providing misinformation, not acknowledging a taxpayer's concerns, not referring the taxpayer to a supervisor when requested, failing to answer specific taxpayer questions, or not providing information or a notice;
- **BOE Delay:** slow response to an inquiry, or delay in issuing a refund or resolving the taxpayer's case;
- **Staff Courtesy:** lack of courtesy or respect shown to taxpayer indicated by staff demeanor, manner of handling the taxpayer's case, or comments made by staff; and
- **Education:** lack of information provided regarding tax law, BOE policy, or BOE procedures; or staff training issues.

The number of customer service complaints decreased slightly this year (see [Appendix 3](#)). Ten percent of the Business Taxes cases in fiscal year 2011-12 expressed concerns related to customer service, compared with 11 percent in fiscal year 2010-11, ten percent in fiscal year 2009-10, seven percent in fiscal year 2008-09,

five percent in 2007-08, and two percent in 2006-07. These fairly steady increases may indicate a need for additional staff training.

***Note:** The customer service statistics were captured based solely on the taxpayers' statements or impressions of their situations. Therefore, these statistics do not necessarily indicate verified problems, but reflect the taxpayers' perception.*

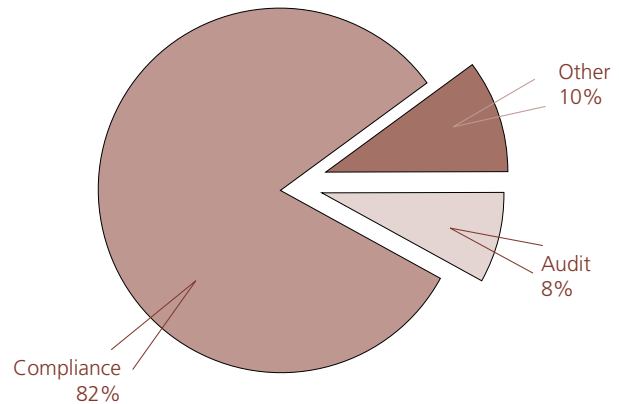
Agreed/Disagreed with Staff Case Handling. After investigating a taxpayer's concerns or contentions, the TRA Office is often able to confirm that staff's handling of the situation was consistent with legal, regulatory, and procedural mandates. However, it is possible that staff handling of the case could change as additional information comes to light through the TRA Office's review and communication with staff and the taxpayer or the TRA Office recommends a different approach to produce a resolution that is satisfactory to both the BOE and the taxpayer. Occasionally, however, the TRA Office disagrees with one or more aspects of how BOE staff handled a case. These instances typically comprise a small percentage of the business taxes cases – only two percent in fiscal year 2011-12 (see [Appendix 3](#)). A case is recorded as "disagreed with staff handling" only when the TRA Office finds that:

- Staff did not adhere to the law or approved policies or procedures;
- Staff acted contrary to what the taxpayer was told by staff;
- Staff caused unreasonable delays; or
- Staff violated the taxpayer's rights.

In order to facilitate improved staff training, the Advocate provides a quarterly report to the appropriate department head and division manager containing the details of these cases, which provides management the opportunity to address specific training needs.

Taxpayer inquiries cover a wide range of issues

Types of Cases. Business taxes cases are sorted broadly into "compliance," "audit," or "other" categories. The "other" category represents consumer complaints, general information requests, and matters involving other state agencies.



Specific Issues Leading to TRA Office Contacts.

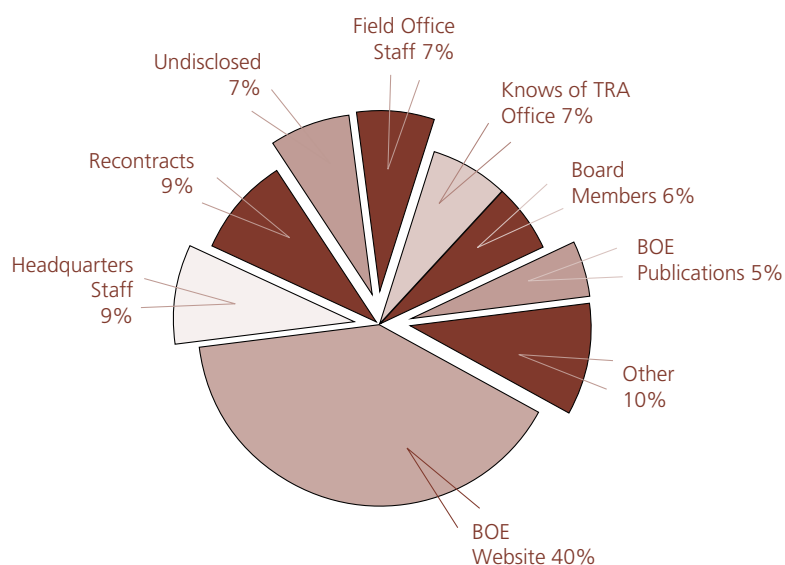
Each case may contain a variety of issues that prompted the taxpayer to contact the TRA Office. All issues in each case were tracked and the most common are displayed in [Appendix 4](#).

Not surprisingly, many of the business taxes cases include the need for general information and guidance. Taxpayers often seek information on a particular procedure or process or to determine if an action taken by BOE staff was appropriate and in compliance with the law and BOE policy. TRA Office staff provide guidance by recommending specific courses of action.

How taxpayers were referred to the TRA Office

In an effort to improve public service, the TRA Office attempts to identify the source of referrals to its office. As in the past, this year the BOE website was the largest source of referrals, accounting for 40 percent of the business taxes cases.

Business Taxes Caseload Referrals



Examples of Business Taxes Cases

The following cases illustrate how taxpayers' issues are resolved by TRA Office staff with the cooperation of BOE staff, and indicate the range of services provided by the business taxes technical advisors. These two cases in particular demonstrate that many of the taxpayers assisted by the TRA Office have situations that are multi-dimensional and may require focused attention from other than the normal channels.

Earnings withhold order created a hardship

Issue. A 70-year old former officer of a closed corporation had been billed in 1993 as a responsible person for a large liability owed to the BOE by the corporation, and payments against his liability were being collected via wage garnishments pursuant to an earnings withhold order (EWO) placed by the BOE. A large amount was still due, consisting of interest and penalty only.

The taxpayer contacted the TRA Office for assistance, stating that the EWO was creating a hardship. He explained that he was in ill health, his house was in the process of foreclosure, and the IRS was also withholding funds from his pay. In fact, the BOE and IRS EWOs amounted to 50 percent of his earnings

and he was also making payments to the IRS pursuant to an installment payment agreement. To further complicate matters, the taxpayer's employer was warning of pending lay-offs.

Resolution. The TRA Office immediately began efforts to find relief for the taxpayer. First, contact was made with the IRS to bring to their attention that the taxpayer's employer was remitting 25 percent of his wages to the BOE (which had a priority claim over the IRS) plus 25 percent to the IRS. California law caps a wage garnishment at 25 percent of the disposable earnings and forbids more than one EWO at a time. Although federal law's limitations have exceptions for taxes, the IRS revenue officer agreed to cancel the IRS's EWO. In the meantime, the TRA Office was advising the taxpayer on filing an offer in compromise.

Next, the TRA Office discussed with the taxpayer and BOE staff a suggestion to initiate an installment payment agreement to replace the EWO so that the taxpayer would not remain in active collection status, providing some stability and avoiding further collection actions. However, as these negotiations were concluding, the taxpayer's employer notified him that his job was changed from full-time to on-call, he was diagnosed with a new ailment, and his medical expenses increased. The TRA Office gained BOE staff's concurrence in adjusting the terms of the payment agreement in light of these developments. A short time later, the taxpayer was laid off, and collection staff agreed not to pursue collection until such time as the taxpayer gained employment, planning to check with the taxpayer periodically.

As the TRA Office was performing a routine review of the account, a question arose about the lien filed by the BOE in connection with the unpaid liability. A Notice of State Tax Lien is allowed to stay in place for 30 years, but must be renewed every ten years. The TRA Office's research disclosed that a timely renewal of the lien related to this taxpayer's liability was overlooked in 2003. Because the Civil Code of Procedures requires that a lien be in place prior to initiating an EWO, it appeared that the funds

collected over the course of the prior two years via wage garnishments were in violation of the law. This conclusion was supported by the BOE's Special Operations Branch. Although the unpaid liability remained due and payable, the taxpayer did obtain a refund of amounts that were collected via the EWO since the expiration of the lien in 2003.

Summary—Services Provided. TRA Office staff worked diligently on the taxpayer's behalf to resolve the EWO problem with another government agency and to ensure an equitable payment arrangement was reached with the BOE that took into account the taxpayer's difficult circumstances. Attention to detail and consultations with BOE staff about an anomaly in the taxpayer's file resulted in the discovery of the lack of a valid lien. This discovery led to the correction of BOE procedures regarding this collection account. The expedited refund to the taxpayer gave him some breathing room during a period of financial hardship.

Trailers were not subject to California use tax Issue. Three years prior to contacting the TRA Office an individual employed by a trucking company had purchased two commercial trailers, which were delivered in Indiana and in Kentucky and both registered the following month in Tennessee, where the individual had a residence. In an attempt to obtain apportioned plates for states in which the trailers could be used, the individual completed a BOE-106, *Vehicle/Vessel Use Tax Clearance Request*, indicating the trailers were bought out-of-state for use in interstate commerce. The BOE-106 indicated a California address; however, the trailers were never brought into California and never registered with the California Department of Motor Vehicles (DMV).

Six months after submitting the BOE-106, the individual received a request for documentation in relation to the BOE-106 from the BOE. BOE correspondence noted that the purpose of the BOE-106 is to complete registration in California without the payment of tax based on a claim that the vehicle is to be used in interstate and foreign commerce.

The individual was asked to provide documentation to support the claimed exemption, including proof of out-of-state delivery and first functional use in interstate or foreign commerce prior to entering California; along with proof of use in interstate or foreign commerce during the first six months after entry into California, such as bills of lading, fuel receipts, and driver's daily logs.

One year after submitting the BOE-106, the individual received another letter from the BOE explaining that if he is claiming that the vehicle was not purchased for use in California, he must demonstrate through documentary evidence that the vehicle did not enter California during the first 12 months of ownership. A list of possible evidence, such as various types of receipts, was provided.

The individual did not respond to the correspondence, which was sent to his daughter's California address. He was billed, and when no payment was made or petition filed, the BOE initiated collection action, including levies and liens. The individual contacted the BOE in response to the collection actions, stating that the trailers never entered California and were never registered with the DMV, he did not have a California business, the trailers were used solely in Tennessee, and the address on the BOE-106 was his daughter's. The individual merely filled out the form but never took any further actions. The trailers, which were used for hauling soil, were used only within 100 miles of his address in Tennessee.

When the individual contacted the TRA Office he was very frustrated because no one would listen to him or cancel the billings when he told them he never followed through on the BOE-106 request and never brought the trailers into California. He did not have the documentation staff requested. In the meantime, the state tax liens were damaging his credit. He provided documentation to the TRA Office regarding the purchase, registration, and insurance coverage of the trailers, along with evidence regarding his longstanding out-of-state residence.

Resolution. The TRA Office started by advising the individual to file a claim for refund of funds captured through bank levies and to file an administrative protest for the billings, while the TRA Office reviewed the case files and the individual's documentation and discussed the matter with the collectors and the Consumer Use Tax Section. Ultimately, the TRA Office was able to help the taxpayer make his case to the Consumer Use Tax Section that he should not be asked to pay use tax based solely on filing the Request for Clearance, when he never followed up by registering the trailers with the DMV and was not a California resident. The billings were canceled, the refund of levied funds was expedited, and the liens were released so as to make it clear they were recorded in error.

Summary—Services Provided. The individual was not able to move forward to resolve the problem. BOE staff was following through on a request for clearance using normal procedures, but this individual did not have the documentation staff was asking for and did not understand why he was asked to provide it. The TRA Office assisted the taxpayer in providing acceptable documentation and helped open lines of communication through the technical advisor's knowledge of the law and BOE operations. The TRA Office stayed engaged with the appropriate areas of the BOE until the billings were canceled, the refund was issued, and the lien was released.

ISSUE RESOLUTION

The two primary functions of the TRA Office are to ensure fair and equitable treatment of taxpayers in the assessment and collection of taxes and to recommend changes in policies, procedures, and laws to improve and ease taxpayer compliance. As a result of specific contacts from taxpayers, issues raised at the annual Taxpayers' Bill of Rights hearings, suggestions received from BOE staff, and issues identified by TRA Office staff, recommendations are presented to the program staff for evaluation. The TRA Office then works with

BOE staff in the development and implementation of policy, procedure, or law changes to address any identified areas of concern.

Accomplishments—Changes Implemented, Concerns Resolved

The following changes to business taxes policies and procedures or improvements to the training and education provided to BOE staff and the public were accomplished this past year.

Revenue and Taxation Code (R&TC) section 7096, Claim for Reimbursement of Bank Charges, was amended to allow reimbursement of fees caused by erroneous processing or collection action

Issue. The BOE, as part of its administrative duties with respect to the collection of taxes, is authorized to seize property of a delinquent taxpayer, and may issue a levy or order to financial institutions to withhold and remit credits or personal property of a delinquent taxpayer in order to satisfy the tax obligations of the taxpayer. However, under R&TC section 7096, if the BOE erroneously issues a levy or notice to withhold, and that error resulted in bank charges or third party check charges incurred by the taxpayer, the taxpayer may file a claim with the BOE for reimbursement of those charges. The TRA Office is charged with the responsibility of reviewing and approving these reimbursement claims.

Occasionally, an erroneous BOE action other than a levy or notice to withhold results in the imposition of bank or third party check charges. For example, a taxpayer's bank account may be charged incorrectly for an automatic payment made in connection with an installment payment agreement, causing an overdraft condition in the bank account. Although the BOE is able to reverse the erroneous debit, the law contained no express statutory authority to reimburse the taxpayer for any bank-imposed fees or third party check charges the taxpayer may have incurred due to the error.

Change implemented. The TRA Office suggested a legislative change, signed into law in 2011, that amended R&TC section 7096 to allow sales and use taxpayers to claim reimbursement for bank and third party check charges due to an erroneous processing action or erroneous collection action by the BOE. The change that the TRA Office proposed was consistent with the original intent of section 7096, as well as with provisions in R&TC section 21018, administered by the Franchise Tax Board.

Clarification was provided on the requirement for a taxpayer to confirm a request for an appeals conference or Board hearing

Issue. The TRA Office received complaints from some taxpayers or their representatives that they were contacted by a BOE collector and asked to pay a liability for which they had filed a timely petition. Upon researching the matter, it was found that the taxpayer had not responded to correspondence from the Sales and Use Tax Department's Petitions Section. It is the practice of the Petitions Section, when the taxpayer's dispute cannot be resolved at this level, to require the taxpayer to confirm its request for an appeals conference and/or Board hearing to avoid having the appealed determination become final. The TRA Office questioned the validity of this practice. In response to the TRA Office's inquiry, the Legal Department confirmed the requirement for the taxpayer to reaffirm its request for an appeal conference or Board hearing was allowed by provisions of the Rules for Tax Appeals, specifically Regulation 5218, *Review of the Petition by the Assigned Section*, subdivision (e).

Resolution. To ensure that taxpayers are aware of the need to respond to the Petitions Section to avoid loss of their appeal rights, the TRA Office asked the Appeals Division to include an explanation of the requirement for a taxpayer to reaffirm their desire for an appeal conference or Board hearing in BOE publication 17, *Appeals Procedures—Sales and Use Taxes and Special Taxes*, and on the BOE-416, *Petition for Redetermination*. Text was incorporated into both

documents in July 2011 explaining that BOE staff may ask a taxpayer to confirm his or her request for an appeals conference or Board hearing and, if a conference or hearing is still desired, the taxpayer must timely respond to staff's request.

Investigations Division Procedures Manual was published on the BOE website

Issue. In an effort to improve public access to audit and compliance policies and procedures, the entire Audit Manual and Compliance Policy and Procedures Manual are available to taxpayers and stakeholders on the BOE website. This allows BOE taxpayers to obtain a clear understanding of what to expect during the registration, audit, and collection processes. Publication of these manuals is consistent with the BOE's ongoing efforts to be a more transparent agency by using a variety of means to make information more easily accessible to the public and its employees.

The Investigations Division, under the BOE's Legal Department, administers the BOE's criminal investigations program by planning, organizing, directing, and controlling all criminal investigations for the various tax programs administered by the BOE. The Division's goals are to identify tax evasion problems and new fraud schemes, and actively investigate and assist in the prosecution of crimes committed by individuals who violate the laws administered by the BOE. The TRA Office suggested that, consistent with other BOE procedural manuals, the Investigations Division Procedures Manual be made available on the BOE website, after being redacted to eliminate any confidential or proprietary material.

Resolution. The Acting Chief of the Investigations Division agreed with the TRA Office's suggestion to publish procedures for the Investigations Division on the BOE's website, and the division's Policy and Procedures Manual is now available on the Investigation Division's web-page, www.boe.ca.gov/invest/investcont.htm.

Staff was reminded of the requirements for a valid Power of Attorney

Issue. The TRA Office periodically receives complaints about BOE staff's insistence on accepting only BOE-prescribed *Power of Attorney* form BOE-392 in order to authorize another person or persons to act on the taxpayer's behalf. The TRA Office suggested it would be helpful to remind staff of the elements that must be present in a Power of Attorney and that, in lieu of the standard BOE form, any written document containing these elements will be accepted, as provided in Rules for Tax Appeals Regulation 5523.1, *Power of Attorney*.

Resolution. In March 2012, the Tax Policy Division of the Sales and Use Tax Department issued a memo to staff, "Power of Attorney," that in part reminded staff that, in lieu of a BOE-392, *Power of Attorney*, BOE staff will accept any written document containing required information. That required information was listed in the memo.

Policy clarification was provided regarding contacting taxpayers who are represented

Issue. A tax professional suggested to the Advocate "a change to Section 0403.16 of BOE's Field Audit manual (and related provisions in the compliance manual) clearly stating that if the taxpayer has a duly authorized [representative], acting under a written power of attorney, then BOE employees may not directly contact the taxpayer without the consent of the representative." The tax professional explained that when engaged by a client to handle sales and use tax matters on the client's behalf and the client provides a properly executed Power of Attorney to the BOE, the taxpayer's representative has a right to expect that BOE staff contact them rather than the taxpayer, to enable the representative to use their professional expertise in fulfilling their duties to the client.

When this does not occur, the result can be confusion, a delay in resolving liabilities or audit issues, or actions taken by the taxpayer inconsistent with the representative's advice.

Since the TRA Office had been contacted in the past by taxpayer representatives with similar concerns, the Advocate brought this matter to the attention of the Sales and Use Tax Department.

Resolution. The Tax Policy Division of the Sales and Use Tax Department issued a policy memo stating "In the event a taxpayer has submitted a power-of-attorney appointing a representative, BOE staff must deal exclusively with the representative regarding all tax matters identified in the power-of-attorney document. However, if the representative has demonstrated a repeated failure to respond to inquiries or requests from staff, staff may contact the taxpayer directly only after consulting with a supervisor . . ." The memo also explained that a document in lieu of the BOE-392, *Power of Attorney*, may be accepted as long as it contains required information, as enumerated in the memo.

Work in Process—Issues Identified

As a result of taxpayer contacts and review of trends, policies, and procedures within the BOE, the TRA Office has recommended consideration of the following issues and is working with staff to develop solutions.

Amendments to special taxes and fees statutes are needed to allow reimbursement of bank charges caused by erroneous BOE processing or collection action

Issue. The TRA Office suggested a legislative change, signed into law in 2011, that amended R&TC section 7096 to allow sales and use taxpayers to claim reimbursement for bank and third party check charges due to an erroneous processing action or erroneous collection action by the BOE (see *Accomplishments*). Similar amendments are needed for equivalent special taxes and fees laws, so that all taxpayers served by the BOE have the same right to claim reimbursement of bank charges caused, not only by erroneous BOE levies, but also by erroneous BOE processing or collection action.

Work in Process. Similar amendments to equivalent special taxes laws administered by the BOE were pending in Assembly Bill 2225 in August 2012, but were removed just prior to the end of the legislative session. The TRA Office will re-submit this suggestion for the 2012-13 legislative session.

Amendments to R&TC section 7096 and equivalent special taxes laws are needed to allow the deadline for claiming reimbursement of bank charges to be waived for reasonable cause

Issue. R&TC section 7096 (b) provides that a claim for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold or an erroneous processing or collection action by the BOE must be filed within 90 days from the date of the levy or notice to withhold or the processing or collection action. However, this provision proved problematic concerning a request for reimbursement of bank charges received by the TRA Office in 2010-11. BOE staff agreed the levy issued to the taxpayer's financial institution was in error. However, the taxpayer never received a copy of the Notice of Levy because the address in BOE's files was incorrect. The levy attached the taxpayer's Individual Retirement Account, causing an early withdrawal penalty and bank fees. The financial institution remitted the funds nearly three months following the issuance of the Notice of Levy, and its notice to the taxpayer at that time was the first notice the taxpayer received about the levy. The TRA Office was not able to approve reimbursement of the bank fees because the taxpayer did not file his claim for reimbursement within 90 days from the date of the levy.

Work in Process. The TRA Office suggested amending section (b) of all relevant statutes² to allow for circumstantial variations such as this case exhibited. The amendments would add the following sentence, in reference to the 90-day filing

deadline: "This provision may be waived by the board for reasonable cause." This language is similar to a provision in R&TC section 21018 that applies to claims for bank fee or third party check charge reimbursement related to erroneous levies or actions by the FTB, which states in subsection (b), "The board may extend the period for filing a claim under this section." The addition of the proposed sentence was pending in Assembly Bill 2225 in August 2012, but was removed just prior to the end of the legislative session. The TRA Office will re-submit this suggestion for the 2012-13 legislative session.

Management should be given discretion to consider reinstatement of revoked accounts with an Installment Payment Agreement

Issue. Compliance Policy and Procedures Manual (CPPM) 751.090, *Conditions of Reinstatement*, provides in part that, in order for BOE to reinstate a revoked account, the taxpayer must clear the cause for revocation by:

1. Filing all delinquent returns and paying the taxes/fees, penalty and interest due.
2. Paying all self-assessed delinquent balances due according to the records of the BOE.
3. Paying, or entering into an installment payment agreement, for audit-determined liabilities.
4. Posting required or additional security on sales tax accounts. Arrangements to post the security deposit in installments may be accepted in lieu of requiring full payment of the security, at the district's discretion.
5. Paying the applicable amount of the reinstatement fee (currently fifty dollars per active location [*increased to \$100 effective January 1, 2010*]) and completing all required forms.
6. Clearing any other causes for revocation of the permit or license.

²Proposed amendments are to R&TC sections 7096, 9274, 30469.4, 32474, 40214, 41174, 43525, 45870, 46625, 50156.14, 55335, and 60633.1.

In general, the TRA Office agrees with the policy of requiring the taxpayer to pay all self-assessed delinquent balances in full before allowing reinstatement, while allowing reinstatement before payment in full in the case of audit-determined liabilities. However, the TRA Office has become aware of cases where collection staff have acted upon the recognition that the interests of the state are best served by reinstatement of the permit prior to payment in full of self-assessed liabilities, with the approval of an installment payment agreement.

The TRA Office has suggested that the BOE revise policy to allow management to consider approving acceptance of a taxpayer's payment proposal for self-assessed liabilities as a condition of reinstating a revoked account. If approved, this policy will:

- Ensure uniformity among collection staff regarding the interpretation of when a payment plan may be considered as a pre-requisite to reinstatement;
- Act as an incentive for taxpayers to file their returns timely and accurately, even if they are unable to make timely payment;
- Allow taxpayers to pay their delinquent taxes via a payment plan while operating their business legally, subject to the BOE's determination that the payment agreement and reinstatement are in the state's best interests; and
- Provide assistance to California taxpayers, many of whom are facing financial hardships due to current economic conditions.

This policy change does not require a law change. R&TC section 6832 states in subdivision (a):

"(a) The board may, in its discretion, enter into a written installment payment agreement with a person for the payment of any taxes due, together with interest thereon and any applicable penalties, in installments over an agreed period. With mutual consent, the board and the taxpayer may alter or modify the agreement."

Further, the TRA Office's recommendation is consistent with R&TC section 6070.5, which was added to the Sales and Use Tax Law in 2011 (effective January 1, 2012) to provide that the BOE may refuse to issue a seller's permit to any person who has an outstanding liability with the BOE and has not entered into an installment payment agreement.

Work in Process. The Sales and Use Tax Department completed research regarding this proposal and at the end of fiscal year 2011-12 was analyzing the results before coming to a decision.

BOE-wide access to signed BOE-82 (Authorization for Electronic Transmission of Data) and BOE-392 (Power of Attorney) is needed

Issue. The TRA Office periodically hears concerns voiced by taxpayers or their representatives that they are required to provide multiple copies of authorization forms BOE-82, *Authorization for Electronic Transmission of Data*, or BOE-392, *Power of Attorney*, to different units within the BOE. The TRA Office suggested to the Tax Policy Division that a taxpayer should be able to provide a BOE-82 or BOE-392 to BOE once and have the authorization be available to any BOE staff that has a business reason to review it.

Work in Process. It is likely this issue will be addressed through one or more BOE Digital Office Vision initiatives that are underway, such as the Digital Audit Project, the Scan on Demand Project, or other initiatives to plan for organized edocument storage. The TRA Office has conveyed its requests for centralized electronic storage of the BOE-82 and BOE-392.

As an interim procedure until all staff have electronic access to taxpayers' central files, Sales and Use Tax Department staff were instructed in June 2012 to enter details about the receipt of Powers of Attorney into BOE's Integrated Revenue Information System.

Statewide Compliance and Outreach Program Guidelines should be published on the BOE website

Issue. In an effort to improve public access to audit and compliance policies and procedures, the entire Audit Manual and Compliance Policy and Procedures Manual are available to taxpayers and stakeholders on the BOE website. In addition, the Investigations Division's Policy and Procedures Manual is now available on the Investigation Division's webpage (see ***Accomplishments***). This allows BOE taxpayers to obtain a clear understanding of what to expect during the registration, audit, and collection processes. Publication of these manuals is consistent with the BOE's ongoing efforts to be a more transparent agency by using a variety of means to make information more easily accessible to the public and its employees.

The purpose of the Sales and Use Tax Department's Statewide Compliance and Outreach Program (SCOP) is to educate business owners regarding their sales and use tax reporting responsibilities, ensure businesses have the required state tax and fee permits, provide a field presence for the BOE, and address the tax gap that exists between sales and use tax revenue due under existing laws and the actual amount that is reported and paid. The TRA Office was aware that written guidelines were available for SCOP staff, and asked the Sales and Use Tax Department to consider making these available to the public, consistent with BOE's other procedural materials.

Work in Process. Sales and Use Tax Department management agreed with the TRA Office's suggestion to publish procedures for the SCOP on the BOE's website. Guidelines for SCOP were organized, reviewed, and placed into clearance in July 2011. In August 2012, the Sales and Use Tax Department placed a draft of the non-confidential information on the BOE website as proposed Chapter 10 of the Compliance Policy and Procedures Manual, seeking public comment prior to Board approval.

Notice of Proposed Determination letters should be issued for dual determinations other than R&TC section 6829

Issue. In fiscal year 2010-11, the Sales and Use Tax Department developed a standard report (letter) to be routinely provided to R&TC section 6829 duals explaining the basis of the billing and how requirements for personal responsibility are deemed met. The BOE-1515, *Notice of Proposed Determination*, is sent to the proposed responsible person(s) 15 days prior to final review and billing. The BOE-1515 outlines the basis for holding the person personally liable under R&TC section 6829, explains their appeal rights, advises them to respond within 15 days if they disagree, and explains that they may obtain copies of documentation relied on by staff to determine the person's liability.

The new policy is working well and is providing taxpayers an opportunity to resolve their liability at an early stage, in some cases without the need to go through a lengthy petition process. The TRA Office believes that all taxpayers being held liable for the debt of another entity should be afforded the same due process and, accordingly, proposed that the Sales and Use Tax Department mirror the process of issuing Notice of Proposed Determination letters to responsible persons under R&TC section 6829 for all other types of dual determinations, such as successors, predecessors, and questionable ownership.

Work in Process. The Sales and Use Tax Department agreed with the TRA Office's proposal, and in June 2011 prepared to draft policy for issuing Notices of Proposed Determination for all other duals and to develop appropriate versions of the BOE-1515 letter for other proposed dual determinations. This year the TRA Office participated in a preliminary clearance of the letter drafts. When fundamental questions arose among clearance reviewers about the composition and use of the letters, the TRA Office met with representatives of the areas of the Sales and Use Tax Department and Legal Department responsible for preparing, reviewing, approving, and billing various types of dual determinations to learn of their concerns. The TRA Office intends to continue

working with affected BOE units to resolve procedural complications related to this proposal.

Taxpayers should be allowed to initiate installment payment agreement requests online

Issue. The BOE has discretion under the law to allow an Installment Payment Agreement (IPA) in cases of financial hardship, thereby accommodating a taxpayer's economic realities while allowing the taxpayer to meet its obligation to the state. Under certain circumstances, a Streamlined Installment Payment Agreement (SIPA) may be offered to a taxpayer with a final liability up to \$10,000, if specific criteria are met. Under a SIPA, the taxpayer is not required to provide any financial documentation.

Some taxpayers have suggested to the TRA Office that BOE consider allowing taxpayers to go online and request their own payment arrangement and not have to be burdened by submitting financial information when tax liabilities are small. In researching this suggestion, we noted that the FTB has a policy of allowing individuals to request an IPA online, by mail, or by phone under certain circumstances.

In 2009, BOE eServices began working on requirements to implement online IPA requests as part of its eServices Expansion Project. However, the Online IPA project was eliminated in June 2010 when electronic services projects were significantly impacted by BOE's mandate to implement various major pieces of new legislation.

The TRA Office suggested the BOE consider reviving and completing the Online IPA project, considering the quantity of work already completed on it. It appears likely that giving taxpayers the ability to propose an IPA online, such as a SIPA, with automatic acceptance if predetermined criteria were met, could greatly reduce collection staff workload. In addition, this system could provide more consistent treatment of taxpayers statewide. This suggestion is consistent with BOE's vision, as described in its strategic technology plan, *The 2020 Plan*, of allowing taxpayers to be able to retrieve and enter their information easily, how they want it and when they want it, thereby better

positioning BOE to maximize voluntary compliance with the tax and fee programs it administers.

Work in process. The proposal has been included in the Technology Services Division's work plans and is tentatively scheduled for completion by March 2013.

A BOE form and filing instructions should be developed for third party claims

Background. A third party may claim ownership or the right to possession of property subject to a Notice of Levy pursuant to Code of Civil Procedure (CCP) section 688.030. CPM 753.210, *Third Party Claims*, provides general information and guidance on processing third-party claims. A third-party claimant should file its claim with the BOE office that issued the levy and the BOE office issuing the levy is responsible for advising the claimant of all the requirements for a valid claim and determining whether the third-party claim conforms to the requirements of CCP section 720.130.

CCP sections 720.110 and 720.120 require that a third-party claim be made by the person claiming ownership and that the claim be submitted prior to the BOE receiving the levied funds. If a claim is received after the BOE has deposited the funds, the only recourse available to the claimant is to follow the claim for refund process. All conforming third-party claims are to be immediately referred to the Litigation Division of the Legal Department, where a determination will be made whether to release the levy or refer the matter to the Attorney General.

Current policy requires BOE collectors to send a copy of the Notice of Levy to the taxpayer within ten calendar days after service of the levy, along with a BOE-425, *Exemptions from the Enforcement of Judgments*, and a BOE-425-L3, *Notice of Levy—Information Sheet*. The information sheet contains a section on "Information for Person Other Than Judgment Debtor" that provides in part:

"If you claim ownership or the right to possession of real or personal property levied upon or if you claim a security interest in or lien on personal

property levied upon, you may make a third-party claim and obtain the release of the property pursuant to CCP 720.010-720.800.”

Issue. The TRA Office has received a number of contacts from non-liaible third parties whose bank accounts or investment accounts are impacted by BOE levies. We are frequently told that when the individual called the BOE collector to explain why their account should not have been levied, the collector failed to explain the process for filing a third-party claim or to inform the individual that, to preserve their rights without having to resort to a claim for refund, the third-party claim must be received before the BOE deposits the funds captured by the levy.

The TRA Office believes it would be beneficial to BOE staff and to third-party claimants to develop a BOE form for use in filing a written third-party claim. Typically, the third party would not receive the *Notice of Levy – Information Sheet* that is sent to the taxpayer with the copy of the Notice of Levy, and even if they did, there is no information on it about how to file a claim with the BOE and no notice that the claim must be received by the BOE prior to the BOE depositing the funds. If a standard third-party claim form were available, with general information and instructions on the back, any BOE employee contacted by a potential claimant could immediately provide the form to the individual.

Work in process. The TRA Office plans to work with the BOE’s Legal Department in drafting a third party claim form with general information and instructions.

Guidelines are needed on when to attach a spousal affidavit to a Notice of Levy

Background. CPM 753.220, *Service of Form BOE-425-L4 to Reach Community Interest of Taxpayer in Spouse’s Account*, provides:

“RTC 6703 authorizes the BOE to serve a Notice of Levy on a third party holding property belonging to a tax debtor. Funds held in a joint bank account are presumed to be community property (Probate Code

5305(a)) and to reach community property interests, staff must attach a spousal affidavit to the Notice of Levy. . . .

“The community property blurb,

‘Service of this Notice also intended to reach any and all community property interest of defendant in any account held in the name of the spouse/registered domestic partner, ***** , SSN *****’. (Cal. Family Code Section 910).’

should be included when levying on a joint account held in the names of the tax debtor and the tax debtor’s spouse. . . .”

CPM 753.230 and 753.240 address community property and separate property, and liability of separate and community property for debt, respectively.

CCP section 700.140(b) provides:

“(b) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of execution and a notice of levy on any third person in whose name the deposit account stands. Service shall be made personally or by mail.”

Issue. The TRA Office has seen a number of cases in which the bank accounts of non-liaible ex-spouses or non-spouses of delinquent taxpayers have been levied, causing them hardship. Often, the non-liaible party only becomes aware of the levy as a result of a notice from the bank or when there are insufficient funds for checks.

There are two areas of concern:

1. There appears to be no consistency among BOE staff about when to add the spousal blurb to a levy. When a levy is sent with a spousal blurb the levying officer must include an affidavit (BOE-425-L4) which certifies that they have knowledge that the person named is the judgment debtor’s spouse. However, there are no guidelines on what constitutes proof of marriage.

2. A copy of the Notice of Levy, along with a BOE-425-L3, *Notice of Levy – Information Sheet*, is only sent to the taxpayer's address of record, addressed to the taxpayer only. Therefore, even though the non-labile spouse (or as it sometimes turns out, the ex-spouse or non-spouse) is personally affected by the levy, this person receives no notice and receives none of the information on the BOE-425-L3 about filing a third-party claim. CCP 700.140(b) requires such a notice to a non-labile spouse as a third party.

The TRA Office recommended developing clear guidelines on when to include spouses on a levy. Staff signing an affidavit should have, by a preponderance of evidence, verified marital status.

The TRA Office recognizes that normally, due to confidentiality laws, BOE would not notify a taxpayer's spouse of a levy on the taxpayer. However, once the spouse is included on the Notice of Levy, the BOE should be required to notify the spouse of the impending action that could have a profound effect on him/her personally. The BOE should consider providing notification that the person's name has been included on a levy as provided by CCP section 700.160(b)(2), and provide the information sheet containing instructions for a person other than the judgment debtor. This notification should be mailed on the same day that the taxpayer's copy of the Notice of Levy and related information is mailed, along with a third party claim form (see the issue described above).

Work in process. The Sales and Use Tax Department indicated its intention to prepare guidance for staff on when to include spouses on a levy.

Guidelines are needed on when to place an offset against a non-labile spouse

Issue. CPPM 771.000, *Interagency Offsets*, provides guidance on requesting payment from another state agency that owes money to a person or entity when that person or entity owes a liability to the BOE, known as "offsetting." The TRA Office has become aware of a number of cases in which a spousal offset was placed

on a non-labile spouse without community property considerations.

The CPPM addresses this matter in 771.020, which states in part:

"Accounts selected for offset must meet the following conditions: . . .

"5. The refund is community property or sole property of the individual. (Staff should look for dissolution of marriage or that the couple is living apart. If the couple is living apart, the income of each spouse is separate property.)"

The TRA Office was concerned that staff was routinely placing offsets on spouses' income tax refunds without attempting to confirm that the refund is community property. The Tax Policy Division agreed that offsets should only be placed on spouses that file separately and then only when it can be established that the offset funds are community property. The TRA Office suggested incorporating clarifying detail in the CPPM regarding the use of offsets on non-labile spouses.

Work in process. The Sales and Use Tax Department indicated that it will provide guidance to staff on this matter.



TAX APPEALS ASSISTANCE PROGRAM

TAX APPEALS ASSISTANCE PROGRAM

ABOUT THE PROGRAM

The Board of Equalization (BOE) serves as the administrative appellate body for the tax and fee programs it administers. Its appellate duties also include review of final actions of the Franchise Tax Board involving the state's Franchise and Personal Income Tax Laws.

The Taxpayers' Rights Advocate (TRA) Office created the Tax Appeals Assistance Program in fiscal year 2005-06 to allow low-income taxpayers who have filed an appeal the opportunity to seek free legal assistance, which is provided by law students. Five law schools participate in the program: the University of the Pacific McGeorge School of Law in Sacramento, the Loyola Law School Los Angeles, the Chapman University School of Law in Orange, the Golden Gate University School of Law in San Francisco, and the University of San Diego School of Law in San Diego. All interactions with participating law schools are overseen by the TRA Office, which also provides instructors for the students.

The program is offered to appellants who are appealing decisions of the Franchise Tax Board with less than \$20,000 in dispute, if the dispute relates to one of the following issues:

- Penalties;
- Head of household;
- Residency;
- Innocent spouse;
- Interest abatement;
- "California Method" (R&TC section 17041, subdivision (b));
- Federal action (notice of proposed assessment based on an action by the Internal Revenue Service);
- Statute of limitations (assessments or refunds);

- Child and dependent care credits;
- Exemption credits;
- Other state tax credits;
- Personal income tax deductions; and
- Corporate minimum tax.

In fiscal year 2009-10 the TRA Office expanded the Tax Appeals Assistance Program to assist individuals appealing BOE consumer use tax billings under \$20,000, and in 2010-11 the program added Cigarette and Tobacco Products Licensing Act violation appeals.

The Tax Appeals Assistance Program has been well received by all five law schools and the program's clients. The TRA Office will continue to work with the Appeals Division, the Sales and Use Tax Department, and the Special Taxes and Fees Division to develop guidelines and parameters for adding additional business taxes appeals to the program.

CASE RESOLUTION

Since its inception, the program has grown from one law school with a few students instructed by one BOE tax counsel, to five law schools with over 40 students instructed by two BOE tax counsels. As noted previously, the program was expanded starting in September 2009 to accept appeals of consumer use tax billings, and in June 2011 to accept cigarette and tobacco products licensing act violation appeals.

During fiscal year 2011-12, 1,109 individuals were informed that they may qualify for the program, 337 cases were accepted into the program, and 237 cases were resolved with the assistance of the program.

TAX APPEALS ASSISTANCE PROGRAM

The Tax Appeals Assistance Program makes a positive difference in the lives of its clients. This year's completed cases have fulfilled the purposes of the program, which are to:

- Educate and assist taxpayers in voluntarily complying with California's tax laws while minimizing their tax compliance burden, and
- Enhance the preparation and quality of the appeals that come before the Board Members.



APPENDIX

The Harris-Katz California Taxpayers' Bill of Rights

(Revenue and Taxation Code Sections)

7080. Title. This article shall be known and may be cited as "The Harris-Katz California Taxpayers' Bill of Rights."

7081. Legislature's findings and declarations.

The Legislature finds and declares that taxes are the most sensitive point of contact between citizens and their government, and that there is a delicate balance between revenue collection and freedom from government oppression. It is the intent of the Legislature to place guarantees in California law to ensure that the rights, privacy, and property of California taxpayers are adequately protected during the process of the assessment and collection of taxes.

The Legislature further finds that the California tax system is based largely on voluntary compliance, and the development of understandable tax laws and taxpayers informed of those laws will improve both voluntary compliance and the relationship between taxpayers and government. It is the further intent of the Legislature to promote improved voluntary taxpayer compliance by improving the clarity of tax laws and efforts to inform the public of the proper application of those laws.

The Legislature further finds and declares that the purpose of any tax proceeding between the State Board of Equalization and a taxpayer is the determination of the taxpayer's correct amount of tax liability. It is the intent of the Legislature that, in furtherance of this purpose, the State Board of Equalization may inquire into, and shall allow the taxpayer every opportunity to present, all relevant information pertaining to the taxpayer's liability.

7082. Administration. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

7083. Taxpayers' Rights Advocate. (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding

unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest which would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

7084. Education and information program. (a) The board shall develop and implement a taxpayer education and information program directed at, but not limited to, all of the following groups:

- (1) Taxpayers newly registered with the board.
- (2) Taxpayer or industry groups identified in the annual report described in Section 7085.
- (3) Board audit and compliance staff.

(b) The education and information program shall include all of the following:

- (1) Mailings to, or appropriate and effective contact with, the taxpayer groups specified in subdivision (a) which explain in simplified terms the most common areas of noncompliance the taxpayers or industry groups are likely to encounter.
- (2) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities as a holder of a seller's permit or use tax registrant and the most common areas of noncompliance encountered by participants in their business or industry.
- (3) Participation in small business seminars and similar programs organized by federal, state, and local agencies.
- (4) Revision of taxpayer educational materials currently produced by the board which explain the most common areas of taxpayer nonconformance in simplified terms.
- (5) Implementation of a continuing education program for audit and compliance personnel to include the

application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

7085. Identification of taxpayer noncompliance by board.

(a) The board shall perform annually a systematic identification of areas of recurrent taxpayer noncompliance and shall report its findings in its annual report submitted pursuant to Section 15616 of the Government Code.

(b) As part of the identification process described in subdivision (a), the board shall do both of the following:

(1) Compile and analyze sample data from its audit process, including, but not limited to, all of the following:

(A) The statute or regulation violated by the taxpayer.

(B) The amount of tax involved.

(C) The industry or business engaged in by the taxpayer.

(D) The number of years covered in the audit period.

(E) Whether or not professional tax preparation assistance was utilized by the taxpayer.

(F) Whether sales and use tax returns were filed by the taxpayer.

(2) Conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Sales and Use Tax Law which may further facilitate achievement of the legislative findings.

(c) The board shall include in its report recommendations for improving taxpayer compliance and uniform administration, including, but not limited to, all of the following:

(1) Changes in statute or board regulations.

(2) Improvement of training of board personnel.

(3) Improvement of taxpayer communication and education.

7086. Preparation of statements by board. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include the statement in the annual tax information bulletins which are mailed to taxpayers.

7087. Limit on revenue collected or assessed. (a) The total amount of revenue collected or assessed pursuant to this part shall not be used for any of the following:

(1) To evaluate individual officers or employees.

(2) To impose or suggest revenue quotas or goals, other than quotas or goals with respect to accounts receivable.

(b) The board shall certify in its annual report submitted pursuant to Section 15616 of the Government Code that revenue collected or assessed is not used in a manner prohibited by subdivision (a).

(c) Nothing in this section shall prohibit the setting of goals and the evaluation of performance with respect to productivity and the efficient use of time.

7088. Evaluation of employee's contact with taxpayers.

(a) The board shall develop and implement a program which will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

(b) The board shall report to the Legislature on the implementation of this program in its annual report.

7089. Plan to timely resolve claims and petitions. No later than July 1, 1989, the board shall, in cooperation with the State Bar of California, the California Society of Certified Public Accountants, the Taxpayers' Rights

Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard time frames and special review of cases which take more time than the appropriate standard time frame.

7090. Procedures relating to protest hearings.

Procedures of the board, relating to protest hearings before board hearing officers, shall include all of the following:

(a) Any hearing shall be held at a reasonable time at a board office which is convenient to the taxpayer.

(b) The hearing may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any hearing that he or she has a right to have present at the hearing his or her attorney, accountant, or other designated agent.

7091. Reimbursement to taxpayer. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the board within one year of the date the decision of the board becomes final.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, in an amount determined by the board in its sole discretion.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the board staff has established that its position was substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of the notice of determination, jeopardy determination, or a claim for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those which relate to the issues where the staff was unreasonable.

(d) Any proposed award by the board pursuant to this section shall be available as a public record for at least 10 days prior to the effective date of the award.

(e) The amendments to this section by the act adding this subdivision shall be operative for claims filed on or after January 1, 1999.

7092. Investigations for nontax administration purposes. (a)

An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include sales and use tax violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

7093.5. Settlement authority. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Except as provided in paragraph (3) and subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil tax matter in dispute.

(2) No recommendation of settlement shall be submitted to the board, itself, unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise in writing the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, itself, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(3) A settlement of any civil tax matter in dispute involving a reduction of tax or penalties in settlement, the total of which reduction of tax and penalties in settlement does not exceed five thousand dollars (\$5,000), may be approved by the executive director and chief counsel, jointly. The executive director shall notify the board, itself, of any settlement approved pursuant to this paragraph.

(c) Whenever a reduction of tax or penalties or total tax and penalties in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) For any settlement approved by the board, itself, the Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board, itself, within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement considered or entered into pursuant to this section shall constitute confidential tax information for purposes of Section 7056.

(h) This section shall apply only to civil tax matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

7093.6 Offers in compromise. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars (\$7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars (\$7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section

7251), and Part 1.7 (commencing with Section 7280) or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final tax liability" means any of the following:

(A) That part of a final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the taxpayer collected sales tax reimbursement or use tax from the purchaser or other person and which was determined against the taxpayer under Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), and Article 5 (commencing with Section 6561) of Chapter 5.

(B) A final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising under Article 7 (commencing with Section 6811) of Chapter 6.

(C) That part of a final tax liability for use tax, including related interest, additions to tax, penalties, or other amounts assessed under this part, determined under Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), and Article 5 (commencing with Section 6561) of Chapter 5, against a taxpayer who is a consumer that is not required to hold a permit under Section 6066.

APPENDIX 1

(3) A qualified final tax liability may not be compromised with any of the following:

(A) A taxpayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the taxpayer is making the offer.

(B) A business that was transferred by a taxpayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(C) A business in which a taxpayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the taxpayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement that permits the taxpayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that the installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

(f) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the taxpayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required sales and use tax returns for a five-year period from the date the liability is compromised, or until the taxpayer is no longer required to file sales and use tax returns, whichever period is earlier.

(h) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(i) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(j) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(k) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(l) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

- (1) The name of the taxpayer.
- (2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
- (3) The amount offered.
- (4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 7056. No list shall be prepared and no releases distributed by the board in connection with these statements.

(m) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(n) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned pursuant to subdivision (h) of Section 1170 of the Penal Code, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.

(o) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(p) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date³.

7094. Release of levy. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.

(b) The Taxpayers' Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to one thousand five hundred dollars (\$1,500) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

³Senate Bill 1548 (Stats. 2012, Ch. 285) effective Jan. 1, 2013 extended the repeal date to January 1, 2018.

(c) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(d) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

7094.1. Return of property. (a) Except in any case where the board finds collection of the tax to be in jeopardy, if any property has been levied upon, the property or the proceeds from the sale of the property shall be returned to the taxpayer if the board determines any one of the following:

(1) The levy on the property was not in accordance with the law.

(2) The taxpayer has entered into and is in compliance with an installment payment agreement pursuant to Section 6832 to satisfy the tax liability for which the levy was imposed, unless that or another agreement allows for the levy.

(3) The return of the property will facilitate the collection of the tax liability or will be in the best interest of the state and the taxpayer.

(b) Property returned under paragraphs (1) and (2) of subdivision (a) is subject to the provisions of Section 7096.

7095. Exemptions from levy. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

7096. Claim for reimbursement of bank charges by taxpayer. (a) A taxpayer may file a claim with the board for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action by the board. Bank and third-party charges include a financial institution's or third party's customary charge for complying with the levy or notice to withhold instructions and reasonable

charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action. The charges are those paid by the taxpayer and not waived or reimbursed by the financial institution or third party. Each claimant applying for reimbursement shall file a claim with the board that shall be in the form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action was caused by board error.

(2) Prior to the levy or notice to withhold, erroneous processing action, or erroneous collection action, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the levy or notice to withhold, erroneous processing action, or erroneous collection action. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

7097. Preliminary notice to taxpayers prior to lien.

(a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 4 (commencing with Section 6536) of Chapter 5.

(c) If the board determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and the receipt of lien recording information. The release shall contain a statement that the lien was filed in error.

In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

(e) The board may release or subordinate a lien if the board determines that the release or subordination will facilitate the collection of the tax liability or will be in the best interest of the state and the taxpayer.

7098. Notice preliminary to suspension. For the purposes of this part only, the board shall not revoke or suspend a person's permit pursuant to Section 6070 or 6072 unless the board has mailed a notice preliminary to revocation or suspension which indicates that the person's permit will be revoked or suspended by a date certain pursuant to that section. The board shall mail the notice preliminary to revocation or suspension to the taxpayer at least 60 days before the date certain.

7099. Disregard by board employee or officer. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon a finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs, as defined for purposes of Section 7156.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceedings brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars (\$10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

7099.1. Protection of taxpayer communications.

(a) (1) With respect to tax advice, the protections of confidentiality that apply to a communication between a client and an attorney, as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, also shall apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a client and an attorney. A federally authorized tax practitioner has the legal obligation and duty to maintain confidentiality with respect to such communications.

(2) Paragraph (1) may only be asserted in any noncriminal tax matter before the State Board of Equalization.

(3) For purposes of this section:

(A) "Federally authorized tax practitioner" means any individual who is authorized under federal law to practice before the Internal Revenue Service if the practice is subject to federal regulation under Section 330 of Title 31 of the United States Code, as provided by federal law as of January 1, 2000.

(B) "Tax advice" means advice given by an individual with respect to a state tax matter, which may include federal tax advice if it relates to the state tax matter. For purposes of this subparagraph, "federal tax advice" means advice given by an individual within the scope of his or her authority to practice before the federal Internal Revenue Service on noncriminal tax matters.

APPENDIX 1

(C) "Tax shelter" means a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement if a significant purpose of that partnership, entity, plan, or arrangement is the avoidance or evasion of federal income tax.

(b) The privilege under subdivision (a) shall not apply to any written communication between a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of the corporation in any tax shelter, or in any proceeding to revoke or otherwise discipline any license or right to practice by any governmental agency.

(c) This section shall be operative for communications made on or after the effective date of the act adding this section.

The Morgan Property Taxpayers' Bill of Rights

(Revenue and Taxation Code Sections)

5900. Title. This part shall be known and may be cited as "The Morgan Property Taxpayers' Bill of Rights."

5901. Findings and declarations. The Legislature finds and declares as follows:

(a) Taxes are a sensitive point of contact between citizens and their government, and disputes and disagreements often arise as a result of misunderstandings or miscommunications.

(b) The dissemination of information to taxpayers regarding property taxes and the promotion of enhanced understanding regarding the property tax system will improve the relationship between taxpayers and the government.

(c) The proper assessment and collection of property taxes is essential to local government and the health and welfare of the citizens of this state.

(d) It is the intent of the Legislature to promote the proper assessment and collection of property taxes throughout this state by advancing, to the extent feasible, uniform practices of property tax appraisal and assessment.

5902. Administration. This part shall be administered by the board.

5903. "Advocate." "Advocate" as used in this part means the "Property Taxpayers' Advocate" designated pursuant to Section 5904.

5904. Property Taxpayers' Advocate; responsibilities. (a) The board shall designate a "Property Taxpayers' Advocate." The advocate shall be responsible for reviewing the adequacy of procedures for both of the following:

(1) The distribution of information regarding property tax assessment matters between and among the board, assessors, and taxpayers.

(2) The prompt resolution of board, assessor, and taxpayer inquiries, and taxpayer complaints and problems.

(b) The advocate shall be designated by, and report directly to, the executive officer of the board. The advocate shall at least annually report to the executive officer on the adequacy of existing procedures, or the need for additional or revised procedures, to accomplish the objectives of this part.

(c) Nothing in this part shall be construed to require the board to reassign property tax program responsibilities within its existing organizational structure.

5905. Additional duties. In addition to any other duties imposed by this part, the advocate shall periodically review and report on the adequacy of existing procedures, or the need for additional or revised procedures, with respect to the following:

(a) The development and implementation of educational and informational programs on property tax assessment matters for the benefit of the board and its staff, assessors and their staffs, local boards of equalization and assessment appeals boards, and taxpayers.

(b) The development and availability of property tax informational pamphlets and other written materials that explain, in simple and nontechnical language, all of the following matters:

(1) Taxation of real and personal property in California.

(2) Property tax exemptions.

(3) Supplemental assessments.

(4) Escape assessments.

(5) Assessment procedures.

(6) Taxpayer obligations, responsibilities, and rights.

(7) Obligations, responsibilities, and rights of property tax authorities, including, but not limited to, the board and assessors.

(8) Property tax appeal procedures.

5906. Additional duties. (a) The advocate shall undertake, to the extent not duplicative of existing programs, periodic review of property tax statements and other property tax forms prescribed by the board to determine both of the following:

(1) Whether the forms and their instructions promote or discourage taxpayer compliance.

(2) Whether the forms or questions therein are necessary and germane to the assessment function.

(b) The advocate shall undertake the review of taxpayer complaints and identify areas of recurrent conflict between taxpayers and assessment officers. This review shall include, but not be limited to, all of the following:

(1) The adequacy and timeliness of board and assessor responses to taxpayers' written complaints and requests for information.

(2) The adequacy and timeliness of corrections of the assessment roll, cancellations of taxes, or issuances of refunds after taxpayers have provided legitimate and adequate information demonstrating the propriety of the corrections, cancellations, or refunds, including, but not limited to, the filing of documents required by law to claim these corrections, cancellations, or refunds.

(3) The timeliness, fairness, and accessibility of hearings and decisions by the board, county boards of equalization, or assessment appeals boards where taxpayers have filed timely applications for assessment appeal.

(4) The application of penalties and interest to property tax assessments or property tax bills where the penalty or interest is a direct result of the assessor's failure to request specified information or a particular method of reporting information, or where the penalty or interest is a direct result of the taxpayer's good faith reliance on written advice provided by the assessor or the board.

(c) Nothing in this section shall be construed to modify any other provision of law or the California Code of Regulations regarding requirements or limitations with respect to the correction of the assessment roll, the cancellation of taxes, the issuance of refunds, or the imposition of penalties or interest.

(d) The board shall annually conduct a public hearing, soliciting the input of assessors, other local agency representatives, and taxpayers, to address the advocate's annual report pursuant to Section 5904, and to identify means to correct any problems identified in that report.

5907. Employee evaluations. No state or local officer or employees responsible for the appraisal or assessment of property shall be evaluated based solely upon the dollar value of assessments enrolled or property taxes collected. However, nothing in this section shall be construed to prevent an official or employee from being evaluated based upon the propriety and application of the methodology used in arriving at a value determination.

5908. Educational assistance. Upon request of a county assessor or assessors, the advocate, in conjunction with any other programs of the board, shall assist assessors in their efforts to provide education and instruction to their staffs and local taxpayers for purposes of promoting taxpayer understanding and compliance with the property tax laws, and, to the extent feasible, statewide uniformity in the application of property tax laws.

5909. Written rulings. (a) County assessors may respond to a taxpayer's written request for a written ruling as to property tax consequences of an actual or planned particular transaction, or as to the property taxes liability of a specified property. For purposes of statewide uniformity, county assessors may consult with board staff prior to issuing a ruling under this subdivision. Any ruling issued under this subdivision shall notify the taxpayer that the ruling represents the county's current interpretation of applicable law and does not bind the county, except as provided in subdivision (b).

(b) Where a taxpayer's failure to timely report information or pay amounts of tax directly results from the taxpayer's reasonable reliance on the county assessor's written ruling under subdivision (a), the taxpayer shall be relieved of any penalties, or interest assessed or accrued, with respect to property taxes not timely paid as a direct result of the taxpayer's reasonable reliance. A taxpayer's failure to timely report property values or to make a timely payment of property taxes shall be considered to directly result from the taxpayer's reasonable reliance on a written ruling from the

assessor under subdivision (a) only if all of the following conditions are met:

(1) The taxpayer has requested in writing that the assessor advise as to the property tax consequences of a particular transaction or as to the property taxes with respect to a particular property, and fully described all relevant facts and circumstances pertaining to that transaction or property.

(2) The assessor has responded in writing and specifically stated the property tax consequences of the transaction or the property taxes with respect to the property.

5910. Report to board. The advocate shall, on or before January 1, 1994, make specific recommendations to the board with respect to standardizing interest rates applicable to escape assessments and refunds of property taxes, and statutes of limitations, so as to place property taxpayers on an equal basis with taxing authorities.

5911. Legislative intent. It is the intent of the Legislature in enacting this part to ensure that:

(a) Taxpayers are provided fair and understandable explanations of their rights and duties with respect to property taxation, prompt resolution of legitimate questions and appeals regarding their property taxes, and prompt corrections when errors have occurred in property tax assessments.

(b) The board designate a taxpayer's advocate position independent of, but not duplicative of, the board's existing property tax programs, to be specifically responsible for reviewing property tax matters from the viewpoint of the taxpayer, and to review and report on, and to recommend to the board's executive officer any necessary changes with respect to, property tax matters as described in this part.

Appendix 3

Outcomes of Business Taxes Cases

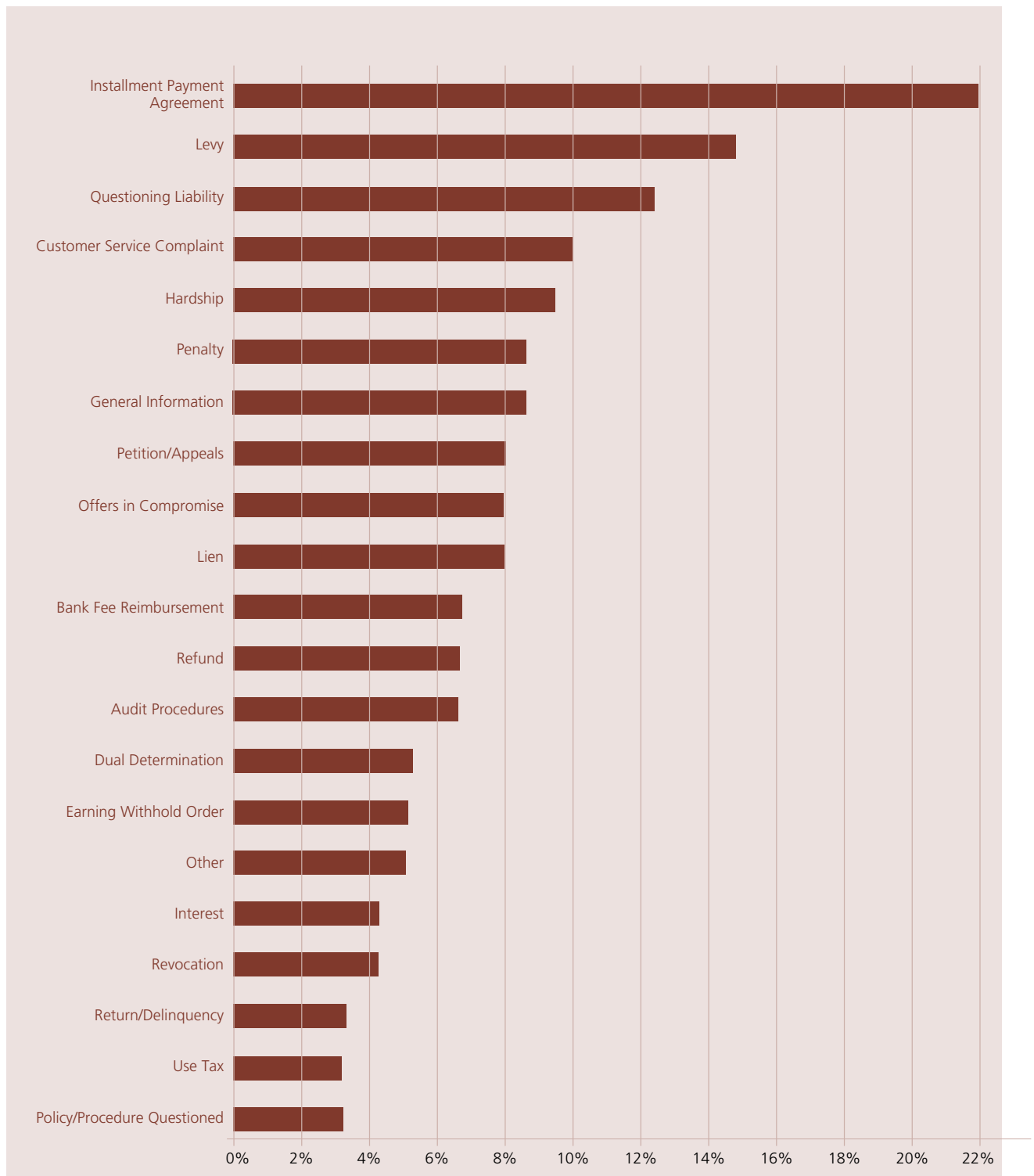
Office of Origin	Cases by Issue Type			Total Cases		Customer Service Concerns	Disagreed with Staff Case Handling	Case Handling Changed
	Audit	Compliance	Other					
Norwalk (AA)	1	8	0	9		0	0	1
Van Nuys (AC)	6	30	1	37		7	0	12
West Covina (AP)	6	10	1	17		3	0	5
Ventura (AR)	2	11	0	13		0	0	4
Culver City (AS)	2	21	1	24		2	0	2
San Francisco (BH)	3	23	0	26		3	0	6
Oakland (CH)	2	16	0	18		2	0	2
Irvine (EA)	6	35	0	41		6	2	10
Riverside (EH)	4	29	0	33		2	0	9
San Diego (FH)	2	20	1	23		2	0	7
San Jose (GH)	4	38	0	42		6	0	14
Santa Rosa (JH)	1	24	0	25		1	0	7
Sacramento (KH)	4	52	1	57		5	2	13
Out-of-State (OH)	0	5	1	6		0	0	0
Appeals Division	1	5	0	6		3	0	1
Audit Determination and Refund Section	2	11	1	14		1	1	3
Board Proceedings Division	1	1	0	2		0	0	0
Centralized Collection Section	2	74	0	76		8	8	22
Consumer Use Tax Section	0	8	0	8		1	0	1
Investigations	0	2	0	2		1	0	0
Offers in Compromise Section	0	6	1	7		1	0	1
Petitions Section	0	2	2	4		1	0	0
Return Analysis Unit	0	7	0	7		1	0	2
Settlement Section	1	1	0	2		0	0	0
Special Operations Branch	0	7	0	7		1	0	1
Special Taxes and Fees Division	2	22	2	26		3	0	5
Statewide Compliance and Outreach Program	0	1	0	1		1	0	0
Use Tax Administration Section	0	9	0	9		0	1	3
Other Government Agencies	0	24	13	37		0	0	0
Other(1)	2	21	40	63		2	0	1
Total	54	523	65	642		63	14	132

Notes: A number of outcomes are tracked for business taxes cases, with the three most significant outcomes displayed here.

(1)The category of "Other" includes: various Headquarters units for which the number of cases is too small to track separately; as well as cases that have no particular office of origin—for example, contacts from the public asking questions about how tax applies or requesting general information.

Appendix 4

Most Common Issues in Business Taxes Cases



Note: Individual business taxes cases may involve a variety of issues that caused the taxpayer to contact the Taxpayers' Rights Advocate Office. All issues in each case were tracked and the most common issues are displayed here.

State Board of Equalization

450 N Street, MIC:70

PO Box 942879, Sacramento, CA 94279-0070

Toll-Free: 1-888-324-2798 • Fax: 1-916-323-3319

Internet: www.boe.ca.gov/tra/tra.htm

